

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ALVION PROPERTIES, INC., SHIRLEY)
K. MEDLEY, and HAROLD M.)
REYNOLDS,)

Plaintiffs,)

v.)

NO. 3:08-0866
Judge Sharp/Bryant

BERND H. WEBER, RAYMONDE WEBER,)
CLAUDE J. CHAUVEAU, AMERICAN)
GULF FINANCE CORP., ALVION)
PARTNERS, LLC, AGF REALTY)
SOLUTIONS, INC., TIMEDATA)
HOLDINGS, LLC,)

Defendants.)

BERND H. WEBER, CLAUDE J.)
CHAUVEAU,)

Counter-Claimants,)

Harold M. Reynolds, Shirley K.)
Medley, Donald M. Medley,)
Farmers State Bank Of Alto Pass,)
Brad Henshaw, Allain de la)
Motte, Elizabeth Melland,)
Robert M. West, Melland Group,)
LLC,)

Counter-Defendants.)

Jury Demand

TO: The Honorable Kevin H. Sharp

REPORT AND RECOMMENDATION

Defendant Raymonde Weber has filed her motion for judgment on the pleadings (Docket Entry No. 638). Although titled a motion for judgment on the pleadings, defendant Weber has filed her declaration in support of her motion (Docket Entry No. 639-1), which requires that her motion be construed as a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil

Procedure. This motion was filed on October 28, 2012.

The revised case management order entered on March 7, 2012 (Docket Entry No. 543), established July 25, 2012, as the deadline for filing any dispositive motion. Accordingly, defendant Raymonde Weber's motion for judgment on the pleadings (or for summary judgment) is untimely by just over three months. For this reason, the undersigned Magistrate Judge finds that defendant Raymonde Weber's motion for judgment on the pleadings (Docket Entry No. 638) should be denied as untimely.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge RECOMMENDS that defendant Raymonde Weber's motion for judgment on the pleadings be DENIED without prejudice to her rights to assert any defenses she may have at the trial of this case, currently scheduled for December 11, 2012.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation.

Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

ENTERED this 2nd day of November 2012.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge